

0877490
BJP/hs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
DIOMINA ASTO,

Plaintiff,

-against-

THERESA R. BETTER and ROBERTO BETTER,

Defendants.
-----X

ANSWER

07 Civ. 4787
ECF CASE
JURY TRIAL DEMANDED

Defendants, THERESA R. BETTER and ROBERTO BETTER, by their attorneys, LAW OFFICE OF THOMAS K. MOORE, answering the complaint, respectfully set forth upon information and belief:

1. Deny any knowledge or information sufficient to form a belief as to any of the allegations contained in paragraphs numbered "1", "2", "9", "13" and "18" of the complaint.
2. Deny each and every allegation contained in paragraphs numbered "3", "4", "10", "11", "12", "14", "15", "16" and "19" of the complaint.
3. Deny any knowledge or information sufficient to form a belief as to any of the allegations contained in paragraph numbered "5" of the complaint, and refer all questions of law to this Honorable Court.
4. Deny each and every allegation contained in paragraphs numbered "6", "7", "8" and "17" of the complaint, and refer all questions of law to this Honorable Court.

**AS AND FOR A FIRST SEPARATE, AFFIRMATIVE AND COMPLETE
DEFENSE TO PLAINTIFF'S ALLEGED CAUSE OF ACTION, THESE
DEFENDANTS RESPECTFULLY SET FORTH AND ALLEGE UPON
INFORMATION AND BELIEF:**

5. That if the plaintiff sustained any injuries as alleged, such injuries were caused by her own fault and negligence, and/or culpable conduct, wholly or partially.

**AS AND FOR A SECOND SEPARATE, AFFIRMATIVE AND COMPLETE
DEFENSE TO PLAINTIFF'S ALLEGED CAUSE OF ACTION, THESE
DEFENDANTS RESPECTFULLY SET FORTH AND ALLEGE UPON
INFORMATION AND BELIEF:**

6. The answering defendant asserts the limited liability provisions of Article 16 of the CPLR.

**AS AND FOR A THIRD SEPARATE, AFFIRMATIVE AND COMPLETE
DEFENSE TO PLAINTIFF'S ALLEGED CAUSE OF ACTION, THESE
DEFENDANTS RESPECTFULLY SET FORTH AND ALLEGE UPON
INFORMATION AND BELIEF:**

7. If plaintiff recovers any damages by reason of the alleged negligence of these answering defendants, said damages must be reduced by the total amount of all funds received by plaintiff for all collateral sources pursuant to CPLR section 4545(c).

WHEREFORE, each answering defendant demands judgment:

- (1) Dismissing the complaint, and
- (2) For costs and disbursements against adverse parties.

Dated: White Plains, New York
June 8, 2007

LAW OFFICE OF THOMAS K. MOORE

By: s/
BRIAN J. POWERS (BP-1992)
Attorneys for Defendants
THERESA R. BETTER and ROBERTO BETTER
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TO:

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**REQUEST FOR
SUPPLEMENTAL DEMAND**

07 Civ. 4787
ECF CASE

You are hereby required to set forth the total damages to which plaintiff deems herself entitled and list same separately for each cause of action.

Dated: White Plains, New York
June 8, 2007

LAW OFFICE OF THOMAS K. MOORE

By: _____

BRIAN J. POWERS (BP-1992)

Attorneys for Defendants

THERESA R. BETTER and ROBERTO BETTER

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